

**Fiscal Note for Permanent Rule Changes for
North Carolina Substance Abuse Professional Practice Board**

Agency Contact: E. Ann Christian
Rules Coordinator and Board Attorney
NC Substance Abuse Professional Practice Board
919-755-9229

Rule Citations: 21 NCAC 68 .0101, .0204, .0208, .0214, .0217, .0225, .0226, .0601-6, .0610-11, .0615, .0620 (see Appendix for proposed rule amendments)

Impact Summary: State Impact: Yes
Local Impact: Yes
Substantial Economic Impact: No
Significant Rule Change: No

Authorizing Statute: G.S. 90-113.30; 90-113.31; 90-113.31A; 90-113.31B(6); 90-113.33; 90-113.34; 90-113.37; 90-113.38; 90-113.39; 90-113.40; 90-113.40B; 90-113.41; 90-113.41A; 93B-2; 90-113.42; 90-113.43; 90-113.44; 90-113.45; 90-338; 93B-15; 150B-22; 150B-38(h);

Purpose of Rule Changes: The purpose of the rule change is to update the rules based on the recent policy changes made by the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated; the Board is authorized to follow these guidelines by the General Assembly. Also, these rules provide more detailed information as a result of the enactment of Session Law 2005-431 and Session Law 2008-130.

Impact

The Board does not expect any significant impact from the proposed rule changes and minimal impact, if any, on local and state governments given that mental health services have been privatized in recent years. The Board has consulted with the staff of state agencies and any estimate of the impact on state funds would be highly speculative.

Below is a description of the changes that might have an impact:

- (1) Rule 21 NCAC 68 .0204 (Supervised Practicum for Certified Substance Abuse Counselor and Licensed Clinical Addictions Specialist) formalizes the amount of time a practitioner needs to be supervised. Although in the current rules there is no set amount for supervision, in effect the rule change would decrease the amount of time supervisors spend with "supervisees," thus reducing the costs to State or local governments and private practices. Interviews with staff for the Department of Health and Human Services and also staff for the Alcohol and Drug Abuse Treatment Centers indicated that a clinical supervisor is on site already performing many other tasks and the time savings from less time spent supervising would not affect any positions, so any reduced costs

would be in terms of time that now could be spent on other tasks. This is unlike private practice wherein supervisors may charge in the range of \$75.00 to \$100.00 to provide an hour of supervision and that cost is assumed by the private practitioner. Note that with the rule change private practitioners would experience a savings. This rule would be enforced through the regular review process of an individual's application by the Board, and is unlikely to have a significant impact on the Board.

- (2) Rule 21 NCAC 68 .0214 (University Substance Abuse Specialty Curricula) would require substance abuse professional practitioners apply for a position to present a transcript if this proof of completion of a substance abuse curriculum approved by the Board is required. This impact is estimated at maximum of \$15 per transcript and would be borne by the individual and not the institution.
- (3) Rule 21 NCAC 68 .0217 (Supervised Practicum for Criminal Justice Addictions Professional Certification) has the same change as the one proposed in Rule 21 NCAC 68 .0204 (applicable to the CSAC). It appears that the State encourages but does not require the credential addressed in .0217, the CCJP credential; therefore neither the State nor local government entities would assume any additional costs that would be due if the credential were required. Also, savings would not be incurred from the reduction in supervision hours specified by this rule change.
- (4) Rule 21 NCAC 68 .0226 (Armed Services Credential) proposes fees to be waived or deferred for members of the Armed Services. The Board would not request additional funds from the state to cover the difference in fees (currently, the Board receives funds from the state to help with operation costs).
- (5) Rule 21 NCAC 68 .0603 (Investigation of Complaint) proposes changes to the process of investigating a complaint. If this were to involve additional work, the Chairman has determined it would be negligible. Service on the Board and as Chairman of the Ethics Committee is voluntary.
- (6) Rule 21 NCAC 68 .0605 (Method of Discipline) proposes changes to disciplinary actions taken by the Board, including extension of the period of time disciplinary actions may be imposed. The only impact the Board could contemplate would apply to a single county Local Management Entity (LME) that might experience some negligible impact. The extension of time is extremely rare and applicable in circumstances beyond the disciplined practitioner's control. For example, this might apply if a disciplined individual were in a serious car accident prior to completion of all conditions contained in the Consent Order. (However, if the individual were seriously injured, he or she would otherwise be unable to provide services with or without completion of the Consent Order.)

Appendix – Proposed Amendments

CHAPTER 68 - SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

SECTION .0100 - GENERAL

21 NCAC 68 .0101 DEFINITIONS

As used in the General Statutes or this Chapter, the following terms have the following meaning:

- (1) "Applicant" means a person who submits documentation seeking Board status for registration or certification.
- (2) "Application packet" means a set of instructions and forms required by the Board for registration.
- (3) "Approved Supervisor" means a supervisor as set out in G.S. 90-113.31. This is a person who fulfills or is in the process of fulfilling the requirements for this Board designation pursuant to Rule .0211 of this Chapter by completing its academic, didactic and experiential requirements.
- (4) "Assessment" means identifying and evaluating an individual's strengths, weaknesses, problems and needs for the development of a treatment or service plan for alcohol, tobacco and drug abuse.
- (5) "Clinical Supervision" means clinical oversight required for all credentials with a minimum of fifty percent clinical supervision that shall accrue in person, face-to-face, while in the proximity of the same room whereas the balance of this requirement may be fulfilled electronically if performed in real time.
- ~~(5)~~ (6) "Clinical Supervision Specific Education" means training that directly covers the aspects of clinical supervision of a substance abuse professional or any of the 12 core functions in their clinical application.
- (7) "Client" means an individual who is in receipt of substance abuse counseling.
- ~~(6)~~ (8) "Complainant" means a person who has filed a complaint pursuant to these Rules.
- ~~(7)~~ (9) "Consultation" means a meeting for discussion, decision-making and planning with other service providers for the purpose of providing substance abuse services.
- ~~(8)~~ (10) "Crisis" means a decisive, crucial event either directly or indirectly related to alcohol or drug use, in the course of treatment that threatens to compromise or destroy the rehabilitation effort.
- ~~(9)~~ (11) "Deemed Status Group" means those persons who are credentialed as a clinical addictions specialist because of their membership in a deemed status discipline.
- ~~(10)~~ (12) "Education" means a service which is designed to inform and teach various groups; including clients, families, schools, businesses, churches, industries, civic and other community groups about the nature of substance abuse disorders and about available community resources. It also serves to improve the social functioning of recipients by increasing awareness of human behavior and providing alternative cognitive or behavioral responses to life's problems.

- ~~(11)~~(13) "Full Time" means 2,000 hours per year.
- ~~(12)~~(14) "General Professional Skill Building" means education provided to enhance general skills of a substance abuse professional.
- (15) "Hearing panel" means a body composed of members of a committee designated by the chairperson of the committee to conduct an informal hearing to determine that the applicant meets the standards required to be awarded or maintained for a credential.
- ~~(13)~~(16) "Impairment" means a mental illness, substance abuse or chemical dependency, physical illness, or aging problem.
- ~~(14)~~(17) "Letter of Reference" means a letter that recommends a person for certification.
- ~~(15)~~(18) "Membership In Good Standing" means a member's certification is not in a state of revocation, lapse, or suspension. However, an individual whose certification is suspended and the suspension is stayed is a member in good standing during the period of the stay.
- ~~(16)~~(19) "Passing score" means the score set by the entity administering the exam.
- (20) "Person served" means an individual who is not a client but is in receipt of substance abuse prevention counseling.
- (21) "Personal service" means the actual delivery of a document into the hands of the person to whom it is intended.
- ~~(17)~~(22) "President" means the President of the Board.
- ~~(18)~~(23) "Prevention Consultation" means a service provided to other mental health, human service, and community planning/development organizations or to individual practitioners in other organizations to assist in the development of insights and skills of the practitioner necessary for prevention.
- ~~(19)~~(24) "Prevention performance domains" means areas of professional activities to include:
- (a) planning and evaluations;
 - (b) education and skill development;
 - (c) community organization;
 - (d) public and organizational policy; and
 - (e) professional growth and responsibility.
- ~~(20)~~(25) "Referral" means identifying the needs of an individual that cannot be met by the counselor or agency and assisting the individual in utilizing the support systems and community resources available.
- ~~(21)~~(26) "Rehabilitation" means re-establishing the functioning needed for professional competency.
- ~~(22)~~(27) "Reinstatement" means an action where the Board restores certification or registration to an applicant after the applicant completes the requirements imposed by the Board.
- ~~(23)~~(28) "Relapse" means the return to the pattern of substance abuse as well as the process during which indicators appear prior to the person's resumption of substance abuse or a re-appearance or exacerbation of physical, psychological or emotional symptoms of impairment.

~~(24)~~(29) "Renewal" means an action by the Board granting a substance abuse professional a consecutive certification or registration based upon the completion of requirements for renewal as prescribed by the Board.

~~(25)~~(30) "Revival" means an action by the Board granting a substance abuse professional a certification or registration following a lapse of certification or registration wherein the professional must also meet the requirements for renewal as prescribed by the Board.

~~(26)~~(31) "Reprimand" means a written warning from the Board to a person making application for certification by the Board or certified by the Board.

~~(27)~~(32) "Respondent" means a person who is making application for certification by the Board or is certified by the Board against whom a complaint has been filed.

~~(28)~~(33) "Sexual activity" means:

- (a) Contact between the penis and the vulva or the penis and the anus;
- (b) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or
- (c) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

~~(34) "Sexual Contact" means the intentional touching, either directly or indirectly, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.~~

~~(34)~~ "Sexual contact" means any of the following actions:

- (a) Vaginal intercourse, cunnilingus, fellatio, or anal intercourse, if initiated, agreed to, or not resisted by the substance abuse professional.
- (b) Kissing or the intentional touching of the other's lips, genital area, groin, inner thigh, buttocks, breasts, or any other body parts, as well as the clothing covering any of these body parts for the purpose of sexual stimulation or gratification of either the substance abuse professional or the client if initiated, agreed to, or not resisted by the substance abuse professional.

~~(30)~~(35) "Substance Abuse Counseling Experience" means approved supervised experience that may be full time or part-time, paid or voluntary, and must include all of the 12 core functions (Rule .0204 of this Chapter) as documented by a job description and supervisors evaluation.

~~(31)~~(36) "Substance Abuse Prevention Consultant Experience" means approved supervised experience that may be full time or part-time, paid or voluntary, and must include all of the prevention domains referenced by Rule .0206 of this Chapter and as documented by a job description and supervisor's evaluation.

~~(32)~~(37) "Substance Abuse Specific" means education focused upon alcohol and other drugs and the substance abusing population and is provided for a substance abuse professional by one whose education and experience is in the field of alcohol and other drugs.

~~(33)~~(38) "Supervised Practice" means supervision of the applicant in the knowledge and skills related to substance abuse professionals.

~~(34)~~(39) "Suspension" means a loss of certification or the privilege of making application for certification.

*History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.40; 90-113.41; 90-113.41A;
Eff. August 1, 1996;
Temporary Amendment Eff. November 15, 1997;
Amended Eff. February 1, 2011; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 2000;
August 1, 1998.*

21 NCAC 68 .0204 SUPERVISED PRACTICUM FOR CERTIFIED SUBSTANCE ABUSE COUNSELOR AND LICENSED CLINICAL ADDICTIONS SPECIALIST

(a) All applicants for the Certified Substance Abuse Counselor or the Clinical Addictions Specialist credential shall complete a 300 hour supervised practicum supervised by an applicant supervisor and the practicum shall cover all ~~twelve~~ core functions of Counseling. Verification of at least ten hours of this supervised practicum shall be made in each of the core functions of this Rule. These 120 hours of the supervised practicum shall be divided into one hour of supervision for every 10 hours of practice in each one of the 12 core functions. These core functions are:

- (1) Screening to determine a client is appropriate and eligible for admission to a particular program;
- (2) Intake to provide the administrative and initial assessment procedures for admission to a program;
- (3) Orientation of the client to the general nature and goals of the program, rules governing client conduct, notice of the hours during which services are available, treatment costs to be borne by the client, if any, and client's rights;
- (4) An assessment to identify and evaluate for the purpose of the development of a treatment plan an individual's strengths, weaknesses, problems and needs;
- (5) The treatment planning process whereby the counselor and client identify and rank problems needing resolution, establish agreed upon immediate and long term goals, and decide on a treatment process and the resources to be utilized;
- (6) Counseling to assist individuals, families, or groups in achieving ~~objectives~~ goals through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions, and making decisions;
- (7) Case management activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals;

- (8) Providing those crisis intervention services which respond to an alcohol or other drug abuser's needs during acute emotional and physical distress;
- (9) Provision of client education information to individuals and groups describing alcohol and other drug abuse and the available services and resources;
- (10) Referring the client whose needs cannot be met by the counselor or agency to other support systems and community resources available;
- (11) Charting the results of the assessment and treatment plan while writing reports, progress notes, discharge summaries and other client-related data necessary for the compilation of necessary reports and recordkeeping; and
- (12) Consultation with substance abuse and other professionals to assure comprehensive, quality care for the client.

(b) The remaining 180 hours of this supervised practicum shall be in the core function areas.

(c) Upon completion of the 300 hours, the supervisor shall complete an evaluation form reviewing the Substance Abuse Counselor's or Clinical Addictions Specialist's professional development and provide it to the Board, documenting the 300 hours of practice, including 30 hours of supervision on a form provided by the Board.

(d) This supervised practicum may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor.

(e) The 300 hours of supervised practical training provided by an applicant supervisor shall be completed as part of the required two years postgraduate supervised substance abuse counseling experience.

(f) The supervision required by this Rule shall be provided by the Practice Supervisor and set forth as follows:

- (1) The first 4,000 hours of practice supervision shall be performed at the rate of one hour for every 40 hours of practice;
- (2) The second 4,000 hours of practice supervision shall be performed at the rate of one hour for every 80 hours of practice;
- (3) All subsequent practice supervision shall be performed at the rate of one hour for every 160 hours of practice.

*History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.34; 90-113.39; 90-113.40;
Eff. August 1, 1996;
Amended Eff. March 1, 2011; January 1, 2010; August 1, 2002.*

**CONTINUING EDUCATION REQUIRED FOR COUNSELOR, CRIMINAL
JUSTICE ADDICTIONS PROFESSIONAL AND PREVENTION CONSULTANT
RE-CREDENTIALING**

(a) In order to be re-credentialed, a substance abuse professional shall:

(1) Comply with the following:

- (A) No more than 25 percent may be in-service education, received within your organization by staff of the same employment.
- (B) No more than 25 percent of workshop presentation with one hour of presentation translating to one hour of education. Workshop presentation shall be a part of an event pre-approved by the Board as set out in these Rules.
- (C) An applicant shall include documentation of each event submitted.
- (D) All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of professional ethics training and education and three hours of ~~nicotine dependence training and education for each re-credentialing~~ to be selected from the list appearing in Rule 21 NCAC 68 .0205(2)(e)(i) through ~~(v)~~ (v) for each re-credentialing.
- (E) No more than 50 percent ~~self-study~~; self-study, approved by the Board as set out in these Rules.

(2) Submit the following:

- (A) A completed application form with continuing education documented;
- (B) A non-refundable one hundred twenty-five dollar (\$125.00) recertification fee; and
- (C) A signed and dated statement that the applicant ~~will~~ shall follow the substance abuse professional's code of conduct.

(b) Each credentialed Counselor, Criminal Justice Addictions Professional and Prevention Consultant shall receive 60 hours of Board approved, as set out in these Rules, education during the current re-credentialing period that shall be documented. No more than 25 percent may be in-service education. A minimum of 30 hours shall be substance abuse specific (SAS). The education may include a combination of hours including attending and conducting workshops.

(c) To be re-credentialed, a Criminal Justice Addictions Professional and a Certified Substance Abuse Counselor shall submit a post-certification supervision contract signed by a Practice Supervisor and supervisee.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.37; 90-113.38; 90-113.39;

Eff. August 1, 1996;

Amended Eff. March 1, 2011; January 1, 2010; April 1, 2003; August 1, 2002; August 1, 2000.

21 NCAC 68 .0214 UNIVERSITY SUBSTANCE ABUSE SPECIALTY CURRICULA

- (a) The Standards Committee shall be notified by a school of its intent to provide a "Substance Abuse Specialty" curricula.
- (b) Upon notification of the school's intent to provide a substance abuse specialty curriculum, the Board shall inform the school that the following information shall be needed from the applicant school:
- (1) Curricula description including number of hours of substance abuse specific credits;
 - (2) Information as to how the educational requirements for substance abuse specialty shall be met within the curricula pursuant to G.S. 90-113.41A(a)(2) a.-k.;
 - (3) The names and resume of any faculty who shall be teaching the substance abuse curricula;
 - (4) The name of the school in which the substance abuse curricula shall be housed and organizational contact information; and
 - (5) Specific guidelines and information on the field experience that shall be required of students including current substance abuse specific field placements and supervision.
- (c) The Standards Committee shall review curricula to determine if the proposal meets educational, hour, substance abuse specific and supervised experience qualifications.
- (d) The Curricula Review Subcommittee of the Standards Committee shall present recommendations to the Board.
- (e) The Board shall notify the school of the status of its request and any recommendation.
- (f) The curricula shall be submitted for review every three years. Application for extension of the curricula shall be made 90 days prior to the current expiration date.
- (g) Individuals applying who have completed a curriculum from a school meeting the criteria set forth in 21 NCAC 68.0214 (b)(1) through (b)(5) shall submit an official masters or more advanced degree transcript from the university or college.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;
Eff. August 1, 2002;
Amended Eff. February 1, 2011; January 1, 2010

**21 NCAC 68. 0217 SUPERVISED PRACTICUM FOR CRIMINAL JUSTICE ADDICTIONS
PROFESSIONAL CERTIFICATION**

- (a) All applicants for the Criminal Justice Addictions Professional Certification shall complete 300 hours supervised practicum. The applicant supervisor shall;
- (1) Train the Criminal Justice Addictions Professional and cover all criminal justice performance domains as set out in G.S. 90-113.31 ~~(B)~~ B (6);

- (2) Submit verification that at least 10 hours of supervised practice was provided in each of the performance domains; and
 - (3) Provide verification of at least one hour of supervision for every 10 hours of practice in each one of the performance domains on a supervisor evaluation form provided by the Board.
- (b) The remaining hours of the supervised practicum shall be in any of the performance domains.
- (c) Upon completion of 300 hours, the applicant supervisor shall:
- (1) Complete an evaluation form reviewing Criminal Justice Addictions Professional's development as a professional;
 - (2) Document the 300 hours of practice to include 30 hours of supervision by the applicant supervisor; and
 - (3) Submit this information to the Board on a form provided by the Board.
- (d) The supervised practicum may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor. The supervised practicum shall take place within a criminal justice addiction professional setting to include a workplace for law enforcement, the judiciary, or corrections.
- (e) Upon completion of the credentialing process described in this Rule, the supervision required shall be provided by the Practice Supervisor and set forth as follows:
- (1) The first 4,000 hours of practice supervision shall be performed at the rate of one hour for every 40 hours of practice;
 - (2) The second 4,000 hours of practice supervision shall be performed at the rate of one hour for every 80 hours of practice;
 - (3) All subsequent practice supervision shall be performed at the rate of one hour for every 160 hours of practice.

*History Note: Authority G.S. 90-113.31A; 90-113.31B(6); 90-113.40; 90-113.40B;
Eff. January 1, 2010; 2010;
Amended Eff. March 1, 2011.*

21 NCAC 68 .0225 SUSPENSION OF AUTHORITY AND ESCROW OF FUNDS

The Board shall file the annual reports set forth in G.S. 93B-2 no later than October 31 of each year. In the event the Board fails to file the reports as required by G.S. 93B-2 and the Board's authority to expend any funds is suspended until such time as the Board files the required reports, the Board shall deposit any fees or funds received during the period of suspension into an escrow account established by the Board solely for this purpose.

*History Note: Authority G.S. 90-113.30; 90-113.33; 93B-2;
 Eff. February 1, 2011.*

21 NCAC 68.0226 ARMED SERVICES CREDENTIAL

Upon receipt of a written request by or on behalf of a credentialed substance abuse professional who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249 authorizes an extension of time to file a tax return, the Board shall postpone renewal fees, renewal application deadlines, continuing education requirements and any other requirements or conditions related to the maintenance of the license issued by the Board or to the renewal thereof for the same period of time as the extended period of time to file a tax return that is granted pursuant to G.S. 93B-15.

*History Note: Authority G.S. 90-113.30; 90-113.33; 93B-15;
 Eff. March 1, 2011.*

SECTION .0600 – GROUNDS FOR DISCIPLINE AND DISCIPLINARY PROCEDURES

21 NCAC 68 .0601 GROUNDS FOR PROFESSIONAL DISCIPLINE

~~Violation of these principles shall be deemed~~ The following are grounds for discipline:

- (1) Fraud or Misrepresentation in Procuring or Maintaining ~~Certification~~ a credential.
 - (a) ~~Acts such~~ Acting as to practice, attempt to practice, or to supervise others while representing oneself to be a ~~certified~~ credentialed substance abuse professional without being duly ~~certified~~ credentialed;
 - (b) ~~False representation of~~ Falsely representing material fact to procure or maintain ~~certification~~ a credential, whether by word or conduct;
 - (c) ~~Concealment of~~ Concealing requested information contained in the application;
 - (d) Attempting to file or filing any false or forged diploma, certificate, affidavit, transcript, identification or qualification;
 - (e) Submitting material which is not the work product of the applicant;
 - (f) Knowingly assisting another to procure or maintain ~~certification~~ his or her credential on the basis of fraud; or
 - (g) ~~Aid, abet, or assist~~ Assisting any ~~uncertified~~ uncredentialed person to practice as a ~~certified~~ credentialed substance abuse professional in violation of this code.
- (2) Fraud or Misrepresentation to the Public.
 - (a) Knowingly make misleading, deceptive, false, or fraudulent misrepresentations in the practice of the profession; or
 - (b) Advertising or holding oneself out to the public to provide professional services for which he or she is not credentialed; or
 - ~~(b)~~ (c) Pursue ~~Pursuing~~ an illegal practice as set forth in G.S. 90-113.43.
- (3) Knowingly make misleading, deceptive, false, or fraudulent representations to the Board.
- ~~(3)~~ (4) Exploitation of ~~Client or Recipient Relationships~~ a relationship with client or person served.
 - (a) Entering into a professional relationship in violation of Rule .0509 of this Chapter;
 - (b) Participating in or soliciting ~~sexual activity or sexual contact~~ exploitation with a current or former client or client of one's agency in violation of Rule .0509 of this Chapter;
 - (c) Entering into personal financial arrangements with a client or person served ~~recipient~~ which make an improper use of the client or recipient in violation of Rule .0511 or any other Rule.
- ~~(4)~~ (5) Illegal Acts ~~of~~ or Practices.
 - (a) Violation of Federal or State confidentiality statutes;
 - (b) Conviction ~~of~~ for violating any controlled substances ~~law, until proof of rehabilitation is established to the Board's satisfaction;~~ law or any driving while impaired law; or

- (c) Being ~~any~~ an accessory to or participating in dishonesty, fraud, misrepresentation or any other illegal act involving a client or ~~recipient~~ person served.
- ~~(5)~~ (6) Professional Incompetency or Failure to Meet Standards of Practice.
 - (a) Failure to follow the standards of skill and competence possessed and applied by professional peers certified in this State acting in the same or similar circumstances;
 - (b) Practicing outside his or her scope of practice;
 - ~~(b)~~ (c) Use of drugs ~~or alcoholic beverages~~ including alcohol to the extent that professional competency is ~~affected, until proof of rehabilitation can be established;~~ affected or that the professional suffers impairment;
 - ~~(c)~~ (d) Refusal to seek treatment for chemical dependency or mental health problems which impair professional performance; or
 - ~~(d)~~ (e) Engaging in conduct that an ordinary, reasonable, and prudent person could foresee would result in harm or injury to the public.
- ~~(6)~~ (7) ~~The following are prohibited governing professional relationships:~~ In professional relationships, the following are prohibited:
 - (a) ~~Offering~~ Knowingly offering professional services to a client ~~or other service recipient~~ in a professional relationship with another substance abuse professional except with the knowledge of the other professional or after the termination of the ~~client or recipient's~~ client's relationship with by the other professional;
 - (b) Sending or receiving any ~~commission or rebate or any other form or of~~ remuneration for referral of clients or ~~recipients~~ persons served for ~~professional~~ substance abuse services from the professional to whom the referral was made;
 - (c) Accepting from or charging the client a fee for a ~~referral only when no other services are provided;~~ referral to another substance abuse professional;
 - (d) Accepting or charging a fee when no substance abuse professional services are actually provided; except actual costs for copies and administrative services may be recovered; or
 - ~~(e) Accepting a gratuity or any other gift other than a one time gift having a value of less than twenty five dollars (\$25.00) for professional work with a person who is receiving the services through the professional's employer; or~~
 - ~~(f)~~ (e) Failing to cooperate with the investigations and proceedings of any professional ethics committee unless the failure is within the exercise of the professional's constitutional rights.

History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Authority G.S. 90-113.33; 90-113.37; 90-113.39; 90-113.40; 90-113.42; 90-113.43; 90-113.44; 90-113.45; 90-338;

Eff. February 1, 1996;

Amended Eff. February 1, 2011; August 1, 2000.

21 NCAC 68 .0602 COMPLAINT PROCEDURES

(a) Initiation. Any individual with personal knowledge that any person has violated the Code of Ethics, any other rules of the Board, or G.S. 90, Article 5C; 5C may file a complaint against the substance abuse professional by submitting a written complaint.

(b) Form. The complaint shall be in writing, stating the nature of the alleged offense and signed by the complainant. The complaint shall include:

- (1) The name, address, and telephone number of the complainant;
- (2) The ~~name, address, and telephone number~~ name and address of the person against whom the complaint is made;
- (3) A statement of the facts ~~which that~~ clearly and accurately describes the allegations against the person.

(c) The complaint shall be investigated as set out in Rule .0603 of this Section.

~~(d) Following an investigation of the complaint, the Ethics Chairperson shall try to reach a settlement through informal procedures.~~

~~(d)~~ (e) Once the Ethics Committee concludes there is a ~~sufficient~~ basis to schedule a disciplinary hearing before the Board, the Committee Chairperson shall notify the person against whom the complaint is made. The notice to the respondent shall include the following:

- (1) State the section(s) of the Code of Ethics, other rules of the Board, or G.S. 90, Article 5C which the complaint alleges has been violated;
- ~~(2) A copy of the complaint;~~
- ~~(3)~~ (2) Direct that the respondent reply in writing and by certified mail within ~~30~~ 15 days of receipt of this notice;
- ~~(4)~~ (3) Inform the respondent that failure to respond in writing within ~~30~~ 15 days may result in revocation of ~~certification~~ credential.

~~(e)~~ (f) ~~Notice~~ Whenever practicable, notice shall be given ~~personally by personal service~~ or by certified ~~mail~~ mail at the last known address of the Respondent. If given by certified mail, it shall be deemed to have been given on the delivery date appearing on the return receipt.

~~(f)~~ (g) If ~~giving of~~ notice cannot be ~~accomplished~~ given either ~~personally by personal service~~ or by certified mail, a notice that a complaint has been brought against the respondent shall then be given by publication. A party that cannot with due diligence be served by personal delivery or certified mail may be given notice to respond to a complaint by publication. Service of notice by publication shall consist of publishing a notice by publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597

and G.S. 1-598 and circulated in the area where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in the county of respondent's last address provided to the Board by the respondent. There shall be mailed to the party at or immediately prior to the first publication a copy of the notice to respond by publication to the respondent's last known address. Upon completion of such service there shall be filed with the Board by the Ethics Committee Chairperson an affidavit showing the publication and mailing substantially in accordance with the requirement of G.S. 1-75.10(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served. The notice shall include a statement by the Board that a complaint has been made against the respondent that is scheduled to be heard by the Board within 90 days. The notice shall inform respondent that respondent shall be given 30 days from the date of the last date of publication in which to respond to the service by publication for the purpose of notifying the Board of respondent's whereabouts. Response shall be made in writing to the Board at the address provided by the Board in its notice. If respondent provides the Board with information whereby respondent can be served by the deadline specific in the notice, the Board shall provide notice either personally or by certified mail as provided in Paragraph (d) of this Rule. Failure of respondent notified by publication of a complaint brought by the Board shall be treated as a failure of respondent to reply to the charges. ~~(f)~~ (h) Failure of the respondent to reply to the charges, including each specific allegation, may be considered an admission of the facts contained in the allegation(s).

History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 90-113.30; 90-113.33; 90-113.44; 113.45;
Eff. February 1, 1996;
Amended Eff. February 1, 2011; August 1, 1998.

21 NCAC 68 .0603 INVESTIGATION OF COMPLAINT

- (a) The Ethics Committee Chairperson, in consultation with the ~~President~~ Executive Director or his or her designee and legal counsel, shall investigate the allegations in the complaint. The Chairperson may appoint any person(s) or name a subcommittee to serve as the investigating entity ~~and~~ to prepare an investigative report.
- (b) The investigating entity may contact the complainant and person against whom the complaint is made.
- (c) Upon completion of the investigation, the Ethics Committee Chairperson in consultation with the investigating entity may determine that:
- (1) The complaint is without merit. The Chairperson shall notify the complainant that the complaint is ~~dismissed~~. dismissed and may notify the respondent of the dismissal; The Chairperson shall also notify the complainant of the procedure for appeal of the dismissal.

- (2) Upon completion of an investigation wherein the complaint is not dismissed, ~~the investigating entity shall make a written report to the Ethics Committee.~~ Committee Chairperson may:
- (A) Offer an informal resolution;
 - (B) Schedule a meeting with the Respondent;
 - (C) Refer the report to the Ethics Committee or its Hearing Panel or
 - (D) Schedule a hearing before the Board; or
 - (E) The Chairperson may take a voluntary dismissal of the case where the respondent relinquishes his or her credential for an agreed upon period of time.
- (d) ~~Those~~ The Ethics Committee members ~~or its subcommittee who serve on the Board~~ shall review ~~the a~~ report referred by the Ethics Chairperson and may take any of the following actions:
- (1) ~~Schedule a meeting with the respondent whereby the dispute may be settled through informal procedures;~~ Dismiss the complaint;
 - (2) ~~Schedule a disciplinary hearing before the Board;~~ Remand the matter to the investigating entity in order to obtain additional evidence sufficient upon which to base a decision;
 - (3) ~~Dismiss the complaint; and~~ Make a written offer of informal resolution;
 - (4) Schedule a meeting with the respondent whereby the dispute may be settled through informal procedures; or
 - ~~(4) (5) Remand the matter to the investigating entity in order to obtain additional evidence sufficient upon which to base a decision.~~ Schedule a disciplinary hearing before the Board.

History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 90-113.33; 90-113.34; 90-113.44;
Eff. February 1, 1996;
Amended Eff. February 1, 2011; August 1, 1998.

21 NCAC 68 .0604 HEARING BEFORE BOARD

(a) A hearing shall be initiated:

- (1) At the call of the Ethics Chairperson, Ethics Committee or Ethics Hearing Panel in the case of a complaint against a ~~certified~~ credentialed professional; or
- (2) By any person pursuant to G. S. 150B, Article 3A on appeal of an agency decision.

(b) The hearing shall be conducted ~~in a fair and impartial manner~~, pursuant to G.S. 150B, Article 3A.

*History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 90-113.30; 90-113.33; 90-113.44; 90-113.45;
Eff. February 1, 1996.
Amended Eff. February 1, 2011.*

21 NCAC 68 .0605 METHOD OF DISCIPLINE

~~(a) Certification may be suspended, revoked or denied by a finding that grounds for disciplinary action as set out in G.S. 90-113.44 exist.~~

~~(b) The Board may impose the following disciplinary sanctions:~~

- ~~(1) — Revocation of certification;~~
- ~~(2) — Suspension of certification until further order of the Board or for a specified period of time;~~
- ~~(3) — Reprimand;~~
- ~~(4) — Denial of certification; or~~
- ~~(5) — Other sanctions which may be deemed appropriate by the Board, including probation in which specific terms and conditions may be imposed such as psychological counseling, testing, or supervision.~~

(a) In the course of the disciplinary investigation or hearing the Board may:

- (1) Deny a credential;
- (2) Revoke a credential;
- (3) Suspend a credential until further order of the Board or for a specified period of time;
- (4) Admonish, reprimand, or censure the Respondent; or
- (5) Take other actions not to be considered a disciplinary action, including a letter of caution or letter of warning with the consent of the Respondent.

(b) Disciplinary or other actions by the Board with the Respondent's consent may be stayed for an additional period of time while the Respondent satisfies all of the conditions of the consent order based on the Respondent's failure to complete the order for reasons outside the Respondent's control.

History Note: *Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*
Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.37; 90-113.43; 90-113.44; 90-113.45;
Eff. February 1, 1996.
Amended Eff. February 1, 2011.

21 NCAC 68 .0606 EFFECT OF ACTIONS OF COURT OR OF OTHER PROFESSIONAL GROUPS

(a) If a person ~~certified~~ credentialed or applying for ~~certification by a credential from~~ the Board has been disciplined by another professional organization or convicted of a felony or a ~~misdemeanor~~ misdemeanor, ~~and that discipline or conviction relates to his qualifications or functions as a substance abuse professional,~~ the Ethics Committee or the Board may take this prior record into consideration when imposing disciplinary sanctions.

(b) When such prior discipline ~~or conviction~~ is discovered, it shall be referred to the Ethics Committee and shall be treated by the Ethics Committee in the same manner as a complaint.

(c) Such prior discipline or conviction as described in Paragraph (a) of this Rule shall be presumed to be correct and appropriate. In order to overcome this presumption, the respondent ~~must~~ shall prove to the Committee's or the Board's satisfaction at least one of the following:

- (1) The process was so flawed that the finding of the court, organization or board is without basis; or
- (2) ~~The~~ Following an investigation by the Board, the disciplinary action by the court, organization or board does not bear a reasonable relation to the conduct complained of resulting in undue punishment.

~~(d) Registrants and certified professionals shall notify the Board within 30 days from the date of any conviction or finding of guilt, or pleading of nolo contendere for all criminal convictions. This reporting shall include DWI convictions but exclude all other traffic convictions pursuant to G.S. 20.~~

~~(e) Failure to report these criminal convictions shall be considered a violation of the Ethical Principles of Conduct.~~

History Note: *Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.43; 90-113.44; 90-113.45;*
Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. February 1, 1996;
Amended Eff. February 1, 2011; April 1, 2003.

21 NCAC 68 .0610

**REINSTATEMENT FOLLOWING REVOCATION AWARDING THE
CREDENTIAL FOLLOWING DENIAL**

- (a) Upon a showing that there are circumstances that could establish a basis for reinstatement ~~or certification or~~ otherwise awarding a credential following its denial, ~~it shall be within the discretion of the Board to~~ may grant such permission.
- (b) A request for reinstatement ~~or certification~~ or otherwise awarding the credential following its denial shall be initiated by the respondent.
- (c) A letter of application for reinstatement ~~or certification~~ or otherwise awarding the credential following its denial shall present facts which, if established, shall be sufficient to enable the Board to determine that the basis for the sanction no longer exists.
- (d) To determine that ~~the basis for the sanction no longer exists~~ there is a basis reinstating or awarding a credential, the Board may consider:
- (1) The nature of the ~~offense~~, offense;
 - (2) The severity of the ~~offense~~, offense;
 - (3) Any resulting harm or injury to the public and its ~~extent~~, extent;
 - (4) The length of time since the punishment was ~~imposed~~, imposed;
 - (5) Restitution ~~made, and~~ made; and
 - (6) Any other factor the Board considers relevant.

History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 90-113.30; 90-113.33; 90-113.37; 90-113.39; 90-113.40; 90-113.44; 90-113.45;
Eff. February 1, 1996.
Amended Eff. February 1, 2011.

21 NCAC 68 .0611

PROOF OF REHABILITATION

- (a) As used in G.S. 90-113.44 and elsewhere, rehabilitation ~~must~~ shall be sustained and continuous for at least six months.
- (b) Upon consideration of the evidence evaluated as set forth in subsection (c) of this rule, the required rehabilitation may be extended pursuant to the treatment recommendations as approved by the Board.
- ~~(b)~~ (c) Evidence for consideration shall include:
- (1) Documentation of treatment history including all assessments, evaluations, treatment, counseling, and group experiences;
 - (2) Complete criminal record;

- (3) A comprehensive biopsychosocial and medical assessment that includes evidence of physical, mental, psychological and social functioning;
- (4) Medical diagnosis and treatment history and functioning prognosis; ~~and~~
- (5) ~~History of relapse.~~ Relapse; and
- (6) Whether or not the respondent cooperated with the Board's investigation, to include self-reporting the violation.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;
 Eff. August 1, 2002.
Amended Eff. February 1, 2011.

21 NCAC 68 .0615 INFORMAL PROCEEDINGS

(a) In addition to formal hearings pursuant to G.S. 90-113.33 and G.S. 90-113.34, the Board may conduct informal proceedings in order to settle ~~on an informal basis~~ certain matters of dispute. A substance abuse professional practicing pursuant to a ~~certification~~ credential or other authority granted by the Board may be invited to attend a meeting with the Board or a committee of the Board on an informal basis to discuss matters as the Board may advise in its communication to the ~~person inviting him or her to attend such meeting.~~ person. No public record of such proceeding shall be made nor shall any individual be placed under oath to give testimony. ~~Matters~~ Information discussed by a person ~~appearing informally in an informal hearing~~ before the Board ~~may, however, may be used against such person used in a formal hearing against the Respondent if a formal hearing is subsequently initiated.~~

~~(e)~~ (b) Attendance at such an informal meeting is not required and is at the discretion of the person so invited. A person invited to attend an informal meeting shall be entitled to have counsel ~~present at such meeting.~~ present.

~~(b)~~ (c) As a result of such informal meeting, the Board may ~~recommend that actions be taken by a person, may offer a person the opportunity to enter into a consent order, may institute a formal public hearing concerning a person, or may take other public or non-public action as the Board may deem appropriate in each case.~~ recommend:

- (1) Actions be taken by a person;
- (2) The person be offered the opportunity to enter into a consent order;
- (3) That it institute a formal public hearing concerning a person; or
- (4) That it take other public or non-public action as the Board may deem appropriate in each case.

History Note: Authority G.S. 150B-22; 150B-38(h);
 Eff. April 1, 2001.
Amended Eff. February 1, 2011.

21 NCAC 68 .0620 PUBLICATION OF ETHICS SANCTIONS

~~(a) All ethics complaint sanctions may be reported by the Board in its newsletter.~~

(b) Sanctions of censure, suspension or revocation of ~~certification~~ a credential shall be published by the Board as soon as it is practicable.

History Note: *Authority G.S. 90-113.30; 90-113.33; 90-113.42; 90-113.43; 90-113.44;*

Eff. August 1, 2002.

Amended Eff. February 1, 2011.